

In re Patent Application of:

Shaolin Li

Application No.: 10/821,038

Filed: April 7, 2004

**For: METHOD OF OPERATING
MULTI-ANTENNA WIRELESS DATA
PROCESSING SYSTEM**

Examiner: not yet assigned

Art Unit: not yet assigned

PETITION SHOWING PROPRIETARY INTEREST UNDER 37 CFR 1.47

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully submits this petition showing proprietary interest pursuant to 37 CFR 1.47.

On September 18, 2000, Shaolin Li entered into an employment agreement with Epogy Communications, Inc. On September 18, 2000, Shaolin Li signed the employment agreement entitled: "EPOGY COMMUNICATIONS, INC. EMPLOYMENT, CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT AGREEMENT," which is attached for your reference as Exhibit A.

Section 8 of said agreement provides:

Ownership of Company Inventions; License of Prior Inventions. I hereby assign and agree to assign to the Company or its designee, my entire right, title, and interest in and to all Inventions ("Company Inventions") and any associated intellectual property rights which I may solely or jointly conceive, develop

or reduce to practice during the period of my employment with the Company (a) which relate at the time of conception or reduction to practice of the invention to the Company's business or actual or demonstrably anticipated research or development, or (b) which were developed on any amount of the Company's time or with the use of any of the Company's equipment, supplies, facilities or trade secret information, or (c) which resulted from any work I performed for the Company. I hereby agree promptly to disclose and describe to the Company any and all potentially patentable Company Inventions. I agree to grant the Company or its designees a royalty free, irrevocable, worldwide license (with rights to sublicense through multiple tiers of distribution) to practice all applicable patent, copyright and other intellectual property rights relating to any Prior Inventions which I incorporate, or permit to be incorporated, in any Company Inventions without the prior written consent of the Company. Notwithstanding the foregoing, I agree that I will not incorporate, or permit to be incorporated, such Prior Inventions in any Company Inventions without Company's prior written consent.

Section 11 of said agreement provides:

Cooperation in Perfecting Rights to Inventions.

(a) I agree to perform, during and after my employment, all acts deemed necessary or desirable by the Company to permit and assist it, at its expense, in obtaining and enforcing the full benefits, enjoyment, rights and title throughout the world in the Inventions hereby assigned to the Company. Such acts may include, but are not limited to, execution of documents and assistance or cooperation in the registration and enforcement of applicable patents, copyrights, maskworks or other legal proceedings.

(b) In the event that the Company is unable after reasonable efforts to secure my signature to any document required to apply for or execute any patent, copyright, maskwork or other applications with respect to any Company Inventions (including improvements, renewals, extensions, continuations, divisions, or continuations in part thereof), I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agents and attorneys-in-fact to act for and on my behalf to execute and file any such application and to do all other lawfully permitted acts to further the prosecution and issuance of patents, copyrights, maskworks or other rights thereon with the same legal force and effect as if executed by me.

In 2001, Shaolin Li conceived the inventions which would become the subject matter of provisional application 60/461,170 filed on April 7, 2003 by J. Nicholas Gross. Shaolin Li is the sole inventor of the inventions. Applicant asserts that the inventions were conceived in the scope of Li's employment as provided in his employment agreement with Epogy Communications. An AFFIDAVIT OF HOWARD A. SKAIST is attached as Exhibit B and describes a chronology of events in support of the proprietary interest.

On January 15, 2003, Epogy Communications, assigned its entire right, title and interest for "Any and all patent applications (provisionals and/or non-provisionals) that are not yet drafted or filed, but which could be filed on the Intellectual Property" to J. Nicholas Gross. A copy of this Assignment is attached as Exhibit C.

On April 7, 2003, J. Nicholas Gross filed a provisional patent application 60/461,170 on the above-referenced inventions.

On April 7, 2004, J. Nicholas Gross filed five non-provisional applications from 60/461,170:

- 1) 10/821,143 – Multi-Antenna Wireless Data Processing System
- 2) 10/821,038 – Method of Operating Multi-Antenna Wireless Data Processing System
- 3) 10/820,962 – System and Method for Achieving Timing Compatibility with Multi-Antenna Wireless Protocols
- 4) 10/820,963 – Monitoring System Using Multi-Antenna Transceivers
- 5) 10/820,961 – Single Chip Multi-Antenna Wireless Data Processor

On May 18, 2004, J. Nicholas Gross assigned all of his rights, title and interest to the above-reference non-provisional patent applications to Bellow Bellows LLC. A copy of this Assignment is attached as Exhibit D.

On May 17, 2004, J. Nicholas Gross provided the last known address of Shaolin Li as being, 34279 Kenwood Drive, Fremont, CA 94555-2958. On June 23, 2004 Berkeley Law & Technology Group, LLC's paralegal, Michelle Evans, searched the public records on Westlaw and did not find any other addresses for Shaolin Li. On July 6, 2004, Berkeley Law & Technology Group, LLC sent copies of all five applications, declarations, and assignments to Dr. Shoalin Li to his last known address: 34279 Kenwood Drive, Fremont, CA 94555-2958 via CERTIFIED MAIL™ RECEIPT 7003 3110 0000 6670 3986. A copy of the receipt is attached as Exhibit E. The United States Post Office attempted delivery at 3:43pm on July 8, 2004 and left a notice. On August 19, 2004, Berkeley Law & Technology Group, LLC looked up the status of the delivery at the United States Post Office Track & Confirm website and the item remains unclaimed. A copy of the status is attached as Exhibit F.

Pursuant to 37 CFR 1.47(b), Applicant respectfully makes application on behalf Bellow Bellows LLC and asserts that it has shown sufficient proprietary interest in the above-referenced matter number.

Respectfully submitted,



Howard A. Skaist
Reg. No. 36,008

Dated: 8/23/04

Berkeley Law and Technology Group, LLC
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Hillsboro, OR 97124